

ZMO LAW PLLC

March 24, 2025

Via ECF and email

Hon. Lawrence J. Vilardo
Western District of New York
Robert H. Jackson United States Courthouse
2 Niagara Square
Buffalo, New York 14202

RE: *Rivers v. Squires*, 23 Civ. 154 (LJV)

Dear Judge Vilardo:

This office represents Jane Rivers in the above-captioned matter. We write to oppose Defendant Squires' request for more time to respond to the Plaintiff's Motion for Leave to Amend the Complaint. ECF No. 62. Though we have several times in the past consented to extensions in this case for defendants in other situations, this particular request appears unnecessary. Given that discovery has not started in this case, despite the Complaint being initially filed over two years ago (ECF No. 1, filed February 17, 2023), further delay absent true necessity would prejudice the Plaintiff.

Defendant Squires requests more time to respond to Plaintiff's motion based on the affidavit of Assistant Attorney General Jennifer Metzger, which stated the Attorney General's Office has determined that it shall not represent proposed new defendant, Elizabeth Maldonado thus Ms. Maldonado's counsel "should be permitted sufficient time to submit a response" to Plaintiff's Motion to Amend. *Id.* at Ex. A ¶ 8. However, Ms. Maldonado has not yet been added as a defendant in the instant action and thus has no standing to submit any such response to Plaintiff's Motion to Amend. *See State Farm Auto Ins. Co. v. CPT Med. Servs., P.C.*, 246 F.R.D. 143, 146 n.1 (E.D.N.Y. 2007) ("[Prospective defendants] do not have standing to oppose the motion for leave to amend because they are not yet named parties to this action.")

On December 12, 2024, Plaintiff filed the Motion to Amend the Complaint in order to add Ms. Maldonado as a defendant. ECF No. 46. On February 19, 2025, this Court ordered that all defendants respond by March 12, 2025 to Plaintiff's motion. ECF No. 53. On March 4, 2025, Defendant Squires filed her First Motion to Extend Time to Respond to Plaintiff's Motion to Amend the Complaint on the basis that the Attorney General's Office needed more time to evaluate whether it would represent Ms. Maldonado in the above-captioned matter. ECF No. 57.

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In Plaintiff's Response in Opposition to Defendant Squires' First Motion, the undersigned submitted to this Court that: (i) Defendant Squires has already consented to Plaintiff amending the Complaint to add Ms. Maldonado as a defendant; (ii) that Defendant Squires' First Motion provided no basis for why the issue regarding counsel for Ms. Maldonado had to be determined before she was added as a Defendant, nor why it would take the Attorney General's Office the then-requested month to complete such an evaluation; and (iii) that Plaintiff would be prejudiced by any further delay given that this case was filed more than two years ago and discovery has not yet begun. ECF No. 58.

On March 5, 2025, this Court granted Defendant Squires' First Motion in part and extended her time to respond until March 26, 2025. Defendant Squires now seeks to relitigate the First Motion on the same untenable premise that the issue of Ms. Maldonado's representation must be resolved before Plaintiff's Motion to Amend the Complaint, even though: (i) Defendant Squires has already consented to Plaintiff amending the complaint; (ii) the Attorney General's Office has determined that it shall not represent Ms. Maldonado in the above-captioned matter; and (ii) Ms. Maldonado currently lacks standing to oppose Plaintiff's Motion to Amend.

Plaintiff would be prejudiced by further delay. This case was first filed near than two years ago, and discovery has not yet begun. Any unnecessary delay should not be allowed.

As there is no good faith basis for the request, and Plaintiff would be prejudiced by further unnecessary delay, Plaintiff opposes defendant Squires' request for more time to respond to the motion for leave to amend the complaint.

Thank you for your attention to this case.

Very truly yours,

Tess Cohen

Tess Cohen
Partner

CC: All Counsel (via ECF)